

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

EDUARDO PINEDA, #27156-078	§	
	§	CIVIL ACTION NO. 6:20cv559
Vs.		CRIM. NO. 6:19cr39
	§	
UNITED STATES OF AMERICA	§	

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Movant Eduardo Pineda, a federal prisoner confined at the Beaumont Low Federal Correctional Institution proceeding *pro se*, brings this motion to vacate, set aside, or correct his federal sentence pursuant to 28 U.S.C. § 2255. The motion was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for disposition of the case.

In his motion, Movant challenges his conviction for one count of manufacture and possession with the intent to manufacture and distribute 100 or more marijuana plants as well as aiding an abetting—by arguing that the federal proscription against marijuana is unconstitutional because those plants were his constitutionally protected property. On June 10, 2021, Judge Love issued a Report recommending that Movant’s section 2255 motion be denied and that the case be dismissed with prejudice. Docket No. 5. Judge Love further recommended that Movant be denied a certificate of appealability *sua sponte*.

The Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir.

1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending time to file objections from ten days to fourteen).


Here, Movant has timely filed objections. The Court has conducted a careful de novo review of the record and the Magistrate Judge's proposed findings and recommendations. *See* 28 U.S.C. §636(b)(1) (District Judge shall "make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made."). Upon such de novo review, the Court has determined that the Report of the United States Magistrate Judge is correct and that Movant's objections are without merit. Accordingly, it is

ORDERED that the Report and Recommendation of the United States Magistrate Judge (Docket No. 5) is **ADOPTED** as the opinion of the Court. Movant's objections (Docket No. 6) are **OVERRULED**. Further, it is

ORDERED that the above-styled habeas petition is **DENIED** and the above-styled civil action is **DISMISSED** with prejudice. Movant is also **DENIED** a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby **DENIED**.

So **ORDERED** and **SIGNED** this **28th** day of **June, 2021**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE